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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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ERNEST D. BUFF ERNEST D. BUFF AND ASSOCIATES, LLC. 231 SOMERVILLE ROAD BEDMINSTER, NJ 07921			CHOI, PETER H	
			ART UNIT	PAPER NUMBER
			3623	

DATE MAILED: 12/14/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.		Applicant(s)	
	10/634,504		ALVERSON ET AL.	
	Examiner		Art Unit	
	Peter Choi		3623	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 September 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-13 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This Final Office action is response to Applicant's amendment filed September 19, 2005. Applicant's amendment amended claim 1 and added new claims 12 and 13. Currently, claims 1-13 are pending.

Response to Arguments

2. Applicant's arguments filed September 19, 2005 have been fully considered but they are not persuasive.

Applicant argues that Aycock et al. does not teach an on-site financial or business practice audit, instead teaching the use of an on-site audit to gain additional information necessary to complete the supplier selection process.

The Examiner agrees with Applicant's argument that Aycock et al. teaches the use of an on-site audit to gain additional information necessary to complete the supplier selection process, but respectfully disagrees with Applicant's argument that Aycock et al. does not teach an on-site financial or business practice audit. Aycock et al. teaches that an on-site supplier audit is used to validate supplier responses [Column 7, lines 62-63], using maturity requirements supplementing the maturity questions generated for the RFP/RFQ as criteria during the on-site supplier audit [Column 8, lines 3-7].

Applicant argues that the additional information (obtained by Aycock et al.) deals strictly with criteria such as quality, production control and design control criteria, and that it does not address criteria such as business and financial matters involving the internal business of the supplier.

The Examiner respectfully disagrees. Aycock et al. teaches that different standards may be selected in the generation of requests for proposals (RFP/RFQs) depending on their relevancy [Column 2, lines 44-46]. Although Aycock et al. presents criteria directed towards quality, production control and design control, it clearly allows other criterion (such as business and financial matters) to be used. Furthermore, quality, production control, and design control are directed towards business practices of the company.

Applicant argues that the supplier evaluation system taught by Aycock et al. provides vendor requirements to the supplier, and the supplier submits responses thereto, after which scaled scores are assigned and correlated with the relative weight of the requirements to calculate a supplier maturity level.

The Examiner agrees that Aycock et al. provides a set of vendor requirements to the supplier in form of RFP/RFQ's (as a survey or questionnaire), to which the supplier

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submits responds, after which said responses are reviewed and scored to produce a maturity level (grade indicative of rank).

Applicant argues that the supplier evaluation system taught by Aycock et al. does not question or evaluate business and financial practices within the supplier's business, instead dealing with technical specifications, price and availability, service and support and the selected quality maturity requirements.

The Examiner respectfully disagrees. Aycock et al. states that "The supplier maturity level refers to the supplier's sophistication and capabilities in establishing and maintaining quality standards in the design, production, distribution, serviceability, and reliability of the supplier's product or service [Column 3, lines 9-13]." The Examiner submits that design, production, distribution, serviceability, and reliability are directed towards business and financial practices. Design, production, serviceability, and reliability are metrics indicative of business practices, and production and distribution are also measures (albeit indirect) of financial practices.

Applicant argues that quality process standards, such as ISO 9001, and the like are not indicative of a contractor's risk value for surety and lending institutional purposes but are instead established in order to determine quality assurance, and basically evaluate the supplier as to the quality of the work, the price the work is offered at, and the availability.

The Examiner respectfully disagrees regarding the significance of quality process standards such as ISO 9001. ISO (International Organization for Standardization) is the world's largest developer of standards, and although ISO's principal activity is the development of technical standards, ISO standards also have important economic and social repercussions. The standards developed by ISO are useful to industrial and business organizations. ISO standards are considered to be benchmarked practices for evaluating the business practices and quality standards of a business.

While quality process standards are not used in and of themselves to secure financial loans, they are representative of past performance, a factor taken into consideration by surety underwriters. Companies that fail to meet such benchmarked quality standards would certainly be identified as a "risk" for future success, and therefore raise doubts as to the company's capability to reimburse the lending institution. The surety underwriting process involves the analysis of financial, credit, and organizational capabilities of an organization, with substantial attention paid towards reviewing the contractor's business plan, history of operations, and evaluating the management of the company. Much emphasis is placed on financial strength and past performance of the contractor.

Applicant argues that price and availability are not tantamount to a contractor's business and financial practices, and are not factors generally utilized by sureties and

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the like, but rather are utilized by other contractors and the like to determine whether the contractor should utilize a specific supplier.

The Examiner respectfully disagrees. The Examiner submits that the surety underwriting process involves the analysis of financial, credit, and organizational capabilities of an organization, with substantial attention paid towards reviewing the contractor's business plan, history of operations, and evaluating the management of the company. Much emphasis is placed on financial strength and past performance of the contractor. The Examiner further submits that price and availability of product are directed towards a contractor's financial strength and past (and future) performance, thereby making them relevant indicators to be used in analysis by surety underwriters.

Applicant argues that Aycock et al. does not teach a contractor certification system comprising survey means comprising a questionnaire, which is provided to selected candidates within a contractor's business for assessing business and financial practices for assessing business and financial practices.

3. In response to applicant's argument that Aycock et al. does not teach a contractor certification system comprising survey means comprising a questionnaire, which is provided to selected candidates within a contractor's business for assessing business and financial practices for assessing business and financial practices, a recitation of the intended use of the claimed invention must result in a structural

difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim. In this case, the limitation of the survey means being used to assess business and financial practices is merely intended use.

Furthermore, the Applicant earlier argued that the supplier evaluation system taught by Aycock et al. provides vendor requirements to the supplier, and the supplier submits responses thereto, after which scaled scores are assigned and correlated with the relative weight of the requirements to calculate a supplier maturity level. The step of providing requirements to suppliers, and receiving submitted answers, comprise surveying means. As previously established, the RFP/RFQ provided is directed towards gathering information directed towards assessing a company's quality standards in the design, production, distribution, serviceability, and reliability of the supplier's product or service, metrics that are directed towards business and financial practices. Furthermore, the claim language states that the **survey** is directed towards "gathering answers concerning information detailing business and financial practices" of a business; however, there are no limitations in the claim language stating that the questions provided to selected candidates are directed towards nor limited solely to business and financial practices.

Applicant argues that any combination of Aycock et al. in view of GuruNet and Bladen et al. would require substantial reconstruction and redesign of the system taught by the primary reference, which is not disclosed by the secondary references and that the proposed combination can only be made in light of applicant's disclosure.

4. In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992).

In this case, both Aycock et al. and GuruNet are directed to the analogous art of providing survey means to evaluating the business and financial practices of a company. While Aycock et al. does not provide specific example of the types of questions presented on the RFP/RFQs and further allows that the different standards of the RFP/RFQs can be selected depending on relevancy, GuruNet provides a specific set of statements directed towards business and financial practices by which an evaluation of a company can be made. Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to modify the teachings of Aycock et al. to include the evaluatory statements directed towards business and financial practices

presented by GuruNet, because the resulting combination would enable a user to evaluate the business and financial practices of a potential contractor.

Applicant argues that the inclusion of the subjective statements and self-scored responses by Aycock et al. in view of GuruNet would require a substantial reconstruction and redesign of the objective scaling or evaluation required by Aycock et al. as well as change in the basic principle under which the Aycock et al. method was designed to operate.

Aycock et al. teaches that "maturity questions applied to the RFP/RFQ in step 16 are written in an objective format, such as "yes" or "no" type questions, or asking the supplier to select a response "A-E" that best represents the suppliers capabilities. The supplier responses are then scored based upon an objective evaluation of the responses" [Column 6, lines 55-61]. GuruNet requires respondents to rate the validity of each statement on a scale of 1-10. The Examiner submits that the statements disclosed by GuruNet could easily be reworded into "yes/no" type questions, or be multiple choice ("A-E" options) format. The use of a scale from 1-10 is analogous to the use of a Likert scale (strongly disagree, disagree, neutral, agree, strongly agree), where certain scores are assigned to a different level of agreement (for example, 1 and 2 equate to strongly disagree, and 9 and 10 equate to strongly agree). Altering the scoring system of GuruNet would not distort the intended use of the evaluatory statements. Furthermore, there are no limitations in the claim language that would preclude the use of a

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combination of objective and subjective measures in the survey, nor are there any limitations requiring the use of only one type (objective or subjective) measure.

Applicant argues that the inclusion of the subjective scaling of GuruNet would disrupt the "assigning a scaled score for each of the said supplier responses" feature of Aycock et al. and be in direct odds with the "assigning a scaled score for each of said supplier responses" feature of Aycock et al. The Applicant further argues that the combination of an objective, unbiased method with that of a subjective, biased method would render the objective method inoperable for its intended purpose and therefore there exists no suggestion to combine the Aycock et al. and GuruNet references.

The Examiner respectfully disagrees. The Examiner submits that the statements disclosed by GuruNet could easily be reworded into "yes/no" type questions, or be multiple choice ("A-E" options) format. The use of a scale from 1-10 is analogous to the use of a Likert scale (strongly disagree, disagree, neutral, agree, strongly agree), where certain scores are assigned to a different level of agreement (for example, 1 and 2 equate to strongly disagree, and 9 and 10 equate to strongly agree). Altering the scoring system of GuruNet as discussed would not distort the intended use of the evaluatory statements.

Applicant argues that neither Aycock et al. nor GuruNet disclose, alone or in combination, survey means comprising a questionnaire, which is provided to selected

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candidates within a contractor's business for gathering answers concerning information detailing business and financial practices.

The Examiner respectfully disagrees. A survey is a gathering of a sample of data or opinions considered to be representative of the whole. Both Aycock et al. and GuruNet disclose the use of surveying means; Aycock et al. provides a questionnaire in the form of a RFP/RFQ (which is completed by suppliers), and GuruNet provides a series of statements (questions) for evaluation (by the staff of a business).

Applicant argues that GuruNet merely provides for self-assessment of a company's practices through generalized questions to be answered by way of a scaled score, ranging from 1-10, and that the questions are not answered with specific information that can be utilized to evaluate a company's financial profile.

The Examiner agrees that GuruNet provides a series of statements for self-assessment. However, the Examiner submits that there are no limitations in the claim language regarding the level of details disclosed by answers. The claim language simply requires "answers concerning information detailing business and financial practices, said answers being used for assessing business and financial practices". Simple Yes/No or scaled scores ranging from 1-10 sufficiently provide information used to access business and financial practices.

Applicant has attempted to challenge the Examiner's taking of Official Notice regarding claim 8 on page 17; however, applicant has not provided adequate information or argument so that on its face it creates a reasonable doubt regarding the circumstances justifying the Official Notice. Therefore, the presentation of a reference to substantiate the Official Notice is not deemed necessary. The Examiner's taking of Official Notice has been maintained.

5. Examiner notes that the applicant did not challenge the Official Notice or dispute the validity of concepts old and well-known in the art as cited in the First or Second Office Action, therefore those statements are presented herein as prior art. Specifically, it has been established that:

- Results derived from a questionnaire or auditing process are quantifiable and therefore allows a number of statistical means, including graphs, to be used in an analysis or comparison.
- Graphical representations of data can be used as a method of comparison.
- The concept and advantages of providing for displays with recognize a contractor's services exceeding industry standards is old and well known in the art.
- Contractors who receive recognition or certification would adapt symbols of recognition, certification, or similar awards for use in promotion of their

business, whether it be on stationary, the company website, or other mediums of advertising.

- Contractors (and firms) subjecting themselves to assessment, evaluation or certification will receive some sort of notification (usually in written form) regarding their performance.
- Process and project execution practice are measures that are vital components in defining a company's management practices and an evaluation of these practices would be needed to formulate a comprehensive assessment that can be used to compare the company with other companies.

6. Applicant's arguments, see pages 14-15, filed September 19, 2005, with respect to the added feature of claim(s) 1-11 that answers are used for assessment by an independent third party have been fully considered and are persuasive. However, Applicant's arguments with respect to claims 1-11 are moot in view of the new ground(s) of rejection.

Applicant argues that neither Aycok et al. nor GuruNet disclose that the answers are further used for assessing business and financial practices of the contractor by an independent third party, instead disclosing a list of generalized statements utilized by a company to perform a self-evaluation of the company's strengths and weaknesses; therefore, the Applicant finds that GuruNet does not provide an objective, unbiased,

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external assessment, but provides a subjective, biased, internal assessment of a company.

The Examiner agrees that neither the Aycock et al. nor GuruNet teachings disclose that the answers are used for assessment by an independent third party. However, Official Notice is taken that it is an old and well-known practice to have an independent third party administer the survey and assessment in order to guarantee impartiality and fairness of the evaluation process, and to comply with government or industry regulations requiring third party assessments.

Claim Rejections - 35 USC § 101

7. The previous 35 USC § 101 rejection made in the Office Action dated June 15, 2005 is withdrawn.

Specification

8. The applicant has amended the specification. The Pickens and Thompson patents are now correctly described. The previous objection of the specification is withdrawn.

Claim Rejections - 35 USC § 112

9. In view of amendments made to the specification by the applicant, claim 6 is now compliant with 35 USC § 112. The previous rejection of claim 6 under these grounds is withdrawn.

Claim Rejections - 35 USC § 103

10. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

11. Claims 1 - 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Aycock et al. (Patent No. #5,765,138) in view of GuruNet's "Business Evaluation Statements" (herein referred to as GuruNet), further in view of Bladen et al. (Patent Application No. #US2002/0099586A1).

As per claim 1, Aycock et al. teaches a contractor certification (supplier evaluation) system comprising:

(a) survey means comprising a questionnaire (**RFP/RFQ**), which is provided to selected candidates (**suppliers that desire to be qualified as vendors**) within a

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contractor's business for gathering answers concerning information detailing business and financial practices (**design, production, distribution, serviceability, and reliability of the supplier's product or service**), said answers being used for assessing business (**service and support**) and financial practices (**price and availability**) of said contractor's practices [Column 6, lines 1-9]

(c) on-location assessment (**on-site audit**) means for determining (**validating**) business practices at the contractor's operations [Column 7, lines 62-65];

(d) comparison means (**risk assessment**) for assessing business practices (**technical capabilities**), and ranking the contractor in comparison with industry standards [Column 8, lines 58-63]; and

(e) reporting means (**product database**) for providing a grade indicative of said contractor's rank (**competitive analysis of all vendors to determine the respective performance**) [Column 9, lines 59-67 and Column 10, lines 1-17].

Aycock et al. fails to teach assessment means for determining the financial practices of a contractor's operations. However, GuruNet is directed to the analogous art of providing survey means for evaluating the business and financial practices of a company.

GuruNet teaches a set of assessment statements that can be used to evaluate the financial practices (**paying bills, collecting receivables, budget analysis, accounting systems, sources of capital, cost efficiency, minimization of costs,**

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cash flow levels) of a company [Retail Questions 72-74, 76-89, 127, Manufacturing Questions 57-68, 123, Wholesale Questions 67-83, 126, Service Questions 71-85, 98-100 and 138].

It would have been obvious to one of ordinary skill in the art at the time of invention to modify the teachings of Aycock et al. to include the evaluatory statements directed towards business and financial practices presented by GuruNet, because the resulting combination would enable a user to evaluate the business and financial practices of a potential contractor as a factor utilized by surety institutions in the surety underwriting process involving the analysis of financial, credit, and organizational capabilities of an organization, with substantial attention paid towards reviewing the contractor's business plan, history of operations, and evaluating the management of the company, especially since much emphasis is placed on financial strength and past performance of the contractor.

The combined teachings of Aycock et al. and GuruNet fail to teach a mapping means for studying answers provided to a questionnaire.

Bladen et al. teaches a risk assessment system where performance can be compared against an industry benchmark using trend analysis graphs of results. Aycock et al. and GuruNet are directed to the analogous art of providing survey means for evaluating the business and financial practices of a company. Bladen et al. is directed to

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the analogous art of assessing the risk of an organization based on an audit comprising a set of questions, criteria and/or other measurables; therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to modify the teachings of Aycock et al. to include a mapping means since it is quite advantageous for these graphs to be used to compare the overall performance of a contractor to industry standards or competitors, or to map their individual strengths and weaknesses [Stage 2 of Paragraph 0461].

Neither Aycock et al., GuruNet, nor Bladen et al. teach the step that the answers are used for assessment by an independent third party. However, Official Notice is taken that it is an old and well-known practice to have an independent third party administer the survey and assessment; therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to modify the combined teachings of Aycock et al., GuruNet and Bladen et al. to have the survey and assessment administered by an independent third party because the resulting combination would guarantee impartiality and fairness of the evaluation process, and would comply with any government or industry regulations requiring third party assessments.

As per claim 2, although not taught by Aycock et al., GuruNet teaches a contractor certification (**company evaluation**) system with a questionnaire (**list of statements**) composed of non-threatening (**objective**) questions. It would have been obvious to one of ordinary skill in the art at the time of invention to modify the teachings

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of Aycock et al. to include the questionnaire featuring non-threatening questions as taught by GuruNet to obtain an honest opinion regarding information necessary to conduct a proper analysis of a company's practices, as the surety underwriting process involves the analysis of financial, credit, and organizational capabilities of an organization, with substantial attention paid towards reviewing the contractor's business plan, history of operations, and evaluating the management of the company.

As per claim 3, although not taught by the combined teachings of Aycock et al. and GuruNet, Bladen et al. teaches a contractor certification (**risk assessment**) system where the mapping means (**graphs of results**) develops, within answers to questions, areas comprising clear matches, clear discrepancies and inadequate details for on location assessment. [Paragraph 0345]

It would have been obvious to one of ordinary skill in the art at the time of invention to modify the combined teachings of Aycock et al. and GuruNet to include a mapping means to compare the results of a contractor in a particular aspect or the response to a particular question from the questionnaire, since results from a questionnaire can be quantified and graphed, and the graphs may highlight strengths or weaknesses of a contractor in comparison to competitors or industry standards that may otherwise be overlooked.

As per claim 4, Aycock et al. teaches a contractor certification **(supplier evaluation)** system where the on-location **(on-site)** assessments **(evaluations)** comprise job site visits **(on-site audit)** [Column 3, line 36 and Column 8, lines 20-24].

As per claim 5, Aycock et al. teaches a contractor certification **(supplier evaluation)** system where the comparison means comprises an evaluation of the contractor's business practice data against one or more databases containing performance and risk factor data from similar contractors **(existing and historical vendor performance and on-site audit reports)**, stored by the contractor certification **(supplier evaluation)** system [Column 9, lines 38-57].

As per claim 6 and 11, the combined teachings of Aycock et al., GuruNet, and Bladen et al. are silent regarding the use of a special logo or insignia to represent the caliber of a contractor's work or the successful completion of the certification program. However, the concept of providing for a display that recognizes that a contractor's services exceed industry standards is well known and accepted as a prior art practice (for example, ISO certification). It is also prior art practice that contractors who receive recognition or certification would adapt it for use in promotion of their business, whether it be on stationary, the company website, or other mediums of advertising.

It has been established in the prior art that when a contractor **(or any firm)** subjects itself to assessment, evaluation, or certification, the firm will receive some sort

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of notification (**usually in written form**) regarding their performance. This notification will entail the findings of the assessment, evaluation, or certification, and can be used by surety institutions in underwriting loans to the contractor.

As per claim 7, the teachings of Aycock et al. fail to disclose the composition of the administered questionnaire. However, GuruNet teaches a series of business evaluation statements that comprises questions directed to organizational aspects with particular reference to management structure [Retail Questions 42,43,52-59,89], authority delegation [Retail Questions 44-45, Manufacturing Question 92, and Wholesale Questions 40-41], and decision-making practices [Retail Questions 49, Manufacturing Questions 31, and 37, Service Questions 39-40,]. It would have been obvious to one of ordinary skill in the art at the time of invention to modify the teachings of Aycock et al. to include questions directed to management structure, authority delegation, and decision-making practices as taught by GuruNet to obtain an understanding of key organizational aspects that impact the daily operations of the company, making it possible to compare practices with the practices of other firms, and further because the surety underwriting process involves the analysis of financial, credit, and organizational capabilities of an organization, with substantial attention paid towards reviewing the contractor's business plan, history of operations, and evaluating the management of the company.

As per claim 8, the teachings of Aycock et al. fail to disclose the composition of the administered questionnaire. However, GuruNet teaches a series of business evaluation statements that comprises questions directed to managerial aspects with particular reference to marketing [Retail Questions 1-4 and 6-13, 114-117, 132, Manufacturing Questions 3,7,9-10,12, 112-114, Wholesale Questions 1-11, 13, 115-117, and Service Questions 2-8, 10-12, and 125-127].

Although GuruNet does not teach any questions regarding a company's bidding process and project execution practice, it has been established as prior art practice that these measures are vital components in defining a company's management practices and an evaluation of these practices would be needed to formulate a comprehensive assessment that can be used to compare the company with other companies.

It would have been obvious to one of ordinary skill in the art at the time of invention to modify the teachings of Aycock et al. to include questions directed to marketing, bidding processes, and project execution practices as taught by GuruNet to obtain an understanding of key managerial aspects that impact the daily operations of the company, making it possible to compare practices with the practices of other firms, and further because the surety underwriting process involves the analysis of financial, credit, and organizational capabilities of an organization, with substantial attention paid towards reviewing the contractor's business plan, history of operations, and evaluating the management of the company.

As per claim 9, Aycock et al. teaches a contractor certification **(supplier evaluation)** system as recited by claim 5, where the database **(vendor database)** stored comprises a compilation of business and financial and risk data derived from contractors previously evaluated **(existing and historical vendor performance or on-site audit reports)** [Column 9, lines 38-57].

As per claim 10, Aycock et al. teaches a contractor certification **(supplier evaluation)** system as recited by claim 6, where the comparison report **(vendor performance report)** sets forth said contractor's business practices **(vendor performance and on-site audit reports)** with detail sufficient to assist surety institutions engaged in underwriting a contractor's credit line [Column 9, lines 38-57].

As per claim 12, neither Aycock et al., GuruNet, nor Bladen et al. explicitly teaches a contractor certification system as recited by claim 1, wherein said reporting means is provided to lending institutions for determining an amount of credit to extend to said contractor's business.

However, Official Notice is taken that it is an old and well-known fact that evaluations of a business (including financial and business practices) can be used for a plurality of applications, such as establishing insurance premiums or loans of credit. The surety underwriting process involves the analysis of financial, credit, and organizational

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capabilities of an organization, with substantial attention paid towards reviewing the contractor's business plan, history of operations, and evaluating the management of the company. Much emphasis is placed on financial strength and past performance of the contractor.

Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to modify the combined teachings of Aycock et al., GuruNet and Bladen et al. to include the step of providing an analytical report resulting from an administered survey to lending institutions because the contents of the analytical report contains information routinely used in the surety underwriting process when determining an amount to loan or insure the business for, and also because the attainment of certification would be representative of a company's overall operations, including financial, credit, organizational capabilities, business plan, history of operations, and management of the company.

As per claim 13, neither Aycock et al., GuruNet, nor Bladen et al. explicitly teaches a contractor certification system as recited by claim 1 that is repeated annually.

However, Official Notice is taken that it is an old and well-known fact that certifications are not indefinitely earned, but rather are distinctions of accomplishment over a specific period of time that become invalid and require renewal after a predetermined period of time. Therefore, it would have been obvious to one of ordinary

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skill in the art to modify the combined teachings of Aycock et al., GuruNet and Bladen et al. to repeat the certification system on an annual basis in order to reflect up-to-date changes in evaluation standards that have been rendered obsolete over time, changes in regulations applicable to a company and/or the field of endeavor in which the company conducts business, changes in a business' performance and worth as indicated by financial and business practices, changes in management, or simply to resolve the status of a company's expiring certification.

Conclusion

12. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

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the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Peter Choi whose telephone number is (571) 272 6971. The examiner can normally be reached on M-F 8-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tariq Hafiz can be reached on (571) 272-6729. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

PC

December 7, 2005

Peter Choi
Examiner
Art Unit 3623


TARIQ R. HAFIZ
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600